

Whether labels can be purchased tax exempt as sales for resale depends upon whether the labels can be considered part of the packaging. See 86 Ill. Adm. Code 130.2070 for information regarding when packaging materials and containers may be purchased without incurring tax liability. (This is a GIL.)

December 16, 1998

Dear Mr. Xxxxx:

This letter is in response to your letter dated November 3, 1998. The nature of your letter and the information you have provided require that we respond with a General Information Letter which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

Issue: Request opinion on the sales/use taxability of labels used by food stores to mark containers of meat products sold to customers.

To Whom It May Concern:

The purpose of this letter is to obtain a ruling on the taxability of labels provided to resellers.

Facts:

We represent a supplier of labels used by food markets to indicate the weight, prices, ingredients, cooking instructions on individually packaged meat products.

Example: A food store purchases materials such as containers, wrapping paper, tape, cellophane which are used to package individual packages of meat cut from the side of beef. Labels are used to describe the contents and are affixed to the package, which the customer purchases. The package or container is not reusable and the price of the packaging and labeling materials are not separately stated on the pricing.

Illinois regulation 130.2070 exempts the sale of containers, wrapping and packaging materials and related products when used in connection with packaging products for resale.

Question:

Do labels containing the prices, weight, grade, cooking instructions, product description and ingredients fall within the definition of other related products and are therefore exempt from sales and use tax when the purchaser of such labels transfers the ownership of the

containers and label to their customers together with the ownership of the tangible personal property contained in such containers.

The states of Iowa and Wisconsin exempt the marking labels from sales and use tax. If you have any question please feel free to contact me.

I appreciate your assistance in this matter as answers will impact several of our customers in Illinois.

Whether labels can be purchased tax exempt as sales for resale depends upon whether the labels can be considered part of the packaging. See 86 Ill. Adm. Code 130.2070, enclosed, for information regarding when packaging materials and containers may be purchased without incurring tax liability. Labels are considered part of the packaging when they are primarily of benefit and utility to the ultimate purchaser of the item to which the labels are attached. However, when the labels are primarily for the benefit of sellers of the items, the labels are taxable under Retailers' Occupation Tax and Use Tax.

For example, price tags and bar code labels are generally primarily for the benefit of the seller and therefore cannot be purchased for resale. Labels that list product ingredients, consumer information, or cooking or storage instructions are generally for the benefit of the purchaser and may be purchased for resale.

I hope this information is helpful. The Department of Revenue maintains a Web site which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis
Associate Counsel

MAJ:msk
Enc.